

for removal of trees or other vegetation (except for mowing of lawns established prior to November 1, 1999).

§ 1304.212 Waivers.

(a) Waivers of standards contained in this subpart may be requested when the following minimum criteria are established:

(1) The property is within a pre-existing development (an area where shoreline development existed prior to November 1, 1999); and

(2) The proposed shoreline alterations are compatible with surrounding permitted structures and uses within the subdivision or, if there is no subdivision, within the immediate vicinity (one-fourth mile radius).

(b) In approving waivers of the standards of this subpart C, TVA will consider the following:

(1) The prevailing permitted practices within the subdivision or immediate vicinity; and

(2) The uses permitted under the guidelines followed by TVA before November 1, 1999.

Subpart D—Activities on TVA Flowage Easement Shoreland

§ 1304.300 Scope and intent.

Any structure built upon land subject to a flowage easement held by TVA shall be deemed an obstruction affecting navigation, flood control, or public lands or reservations within the meaning of section 26a of the Act. Such obstructions shall be subject to all requirements of this part except those contained in subpart C of this part, which shall apply as follows:

(a) All of § 1304.212 shall apply.

(b) Sections 1304.200, 1304.203, 1304.207, and 1304.209 shall not apply.

(c) Section 1304.201 shall not apply except for paragraph (c).

(d) Section 1304.202 shall apply except that TVA shall determine on a case-by-case basis whether it is necessary to remove materials accumulated behind sediment control structures to an upland site.

(e) Section 1304.204 shall apply except that the “50 feet” trigger of paragraph (i) of that section shall not apply. TVA may impose appropriate requirements

to ensure accommodation of neighboring landowners.

(f) Section 1304.205 shall apply except that the facilities described in paragraph (a) are not limited to locations within an access corridor.

(g) Section 1304.206 shall apply except for paragraph (b)(3).

(h) Section 1304.208 shall apply except that TVA approval shall not be required to conduct the activities described in paragraph (a).

(i) Section 1304.210 shall apply except for paragraph (d).

(j) Section 1304.211 shall apply except to the extent that it would restrict mowing or other vegetation management.

(k) Nothing contained in this part shall be construed to be in derogation of the rights of the United States or of TVA under any flowage easement held by the United States or TVA.

§ 1304.301 Utilities.

Upon application to and approval by TVA, utility lines (electric, water-intake lines, etc.) may be placed within the flowage easement area as follows:

(a) Power lines, poles, electrical panels, and wiring shall be installed:

(1) In a way that would not be hazardous to the public or interfere with TVA operations; and

(2) In compliance with all State and local electrical codes (satisfactory evidence of compliance to be provided to TVA upon request).

(b) Electrical service shall be installed with an electrical disconnect that is located above the 500-year floodplain or the flood risk profile, whichever is higher, and is accessible during flood events.

(c) TVA’s issuance of a permit does not mean that TVA has determined the facilities are safe for any purpose or that TVA has any duty to make such a determination.

§ 1304.302 Vegetation management on flowage easement shoreland.

Removal, modification, or establishment of vegetation on privately-owned shoreland subject to a TVA flowage easement does not require approval by TVA. When reviewing proposals for docks or other obstructions on flowage